

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MIQUISHA STRAUGHTER,

Plaintiff,

v.

MACY'S WEST STORES, INC.,

Defendant.

Case No. 17-cv-01143 NC

**ORDER TO SHOW CAUSE
REGARDING FEDERAL
QUESTION JURISDICTION**

Re: Dkt. No. 33

On October 11, 2017, the Court heard oral argument on Macy's motion to dismiss for lack of subject matter jurisdiction. The Court took the matter under submission. In opposition to the motion to dismiss, Straughter repeatedly cited *Proctor v. Vishay Intertechnology Inc.*, 584 F.3d 1208, 1219 (9th Cir. 2009). *Proctor* cites *Empire Healthchoice Assur., Inc. v. McVeigh*, 547 U.S. 677, 689-90 (2006). *Empire's* discussion of subject matter jurisdiction based on "substantial question[s] of federal law," in turn was based on *Grable & Sons Metal Prod., Inc. v. Darue Eng'g & Mfg.*, 545 U.S. 308, 313-14 (2005). The relevant holding of *Grable* is that federal subject matter jurisdiction is proper if (1) the "state-law claim necessarily raise[s] a stated federal issue;" (2) if that issue is "actually disputed;" (3) "substantial;" and (4) if that issue is one "which a federal forum may entertain without disturbing any congressionally approved balance of federal and state judicial responsibilities." *Id.* at 314.

Neither party briefed *Grable*, nor discussed the case when prompted to at the
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1 hearing. The Court now order the parties to each file one brief, not to exceed 6 pages
2 addressing: (1) whether *Grable* applies to this case; and (2) Straughter's satisfaction of the
3 *Grable* factors. These briefs must be filed by October 23, 2017.

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5 **IT IS SO ORDERED.**

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7 Dated: October 16, 2017


NATHANAEL M. COUSINS
United States Magistrate Judge